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09/366,114

08/02/1999

ROBERT O. STUART

STUART-ISAM

2676

7590

09/23/2004

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EXAMINER

SING, SIMON P

ART UNIT

PAPER NUMBER

2645

DATE MAILED: 09/23/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/366,114

Applicant(s)

STUART ET AL

Examiner

Simon Sing

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 16-25, 27-36 and 38-41 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Declaration under 37 C.F.R. § 1.131***

1. Upon review of the 37 C.F.R. 1.131 Declaration filed 06/14/04 (hereinafter Third Declaration) with Exhibit A-S with the attached documents, examiner believes that the Declarations are not sufficient to overcome the rejections based on prior art references Gisby (U.S. Patent 5,943,416) and Shaffer (U.S. Patent 6,363,145).

2. In the Exhibits A to S submitted by the Applicants, only Exhibits A and B are newly submitted, and Exhibits C to S are the same ones filed in the previous declarations. However, Exhibits A and B fail to support the statement (2<sup>nd</sup> paragraph of the Third Declaration) that they are prepared before 02/17/1998. Therefore, this Declaration is not sufficient to overcome the rejections based on prior art references Gisby (U.S. Patent 5,943,416).

On the second page of Exhibit C, only limited technical disclosure is found. The first paragraph states: "ISAM enables a firm to directly tie internal and external measurements ... ISAM evaluates individual operator performance with service and satisfaction in a valid and reliable manner". On the second paragraph, it states: "the ISAM system examined customer service in a call center would link a customer, their operator and a specific transaction". On the third paragraph, it states: "ISAM assesses customer satisfaction on a real-time basis ..." and the last paragraph states that: "ISAM is a measurement software to

Art Unit: 2645

assess customer satisfaction". It appears that the "ISAM" is **an existing system** which is controlled by a software also called "ISAM" for evaluating operators performance in a real time basis and the "ISAM" system links a customer, operator and a specific transaction.

However, It is questionable that the "ISAM" system is the claimed system. No evidence shows that the "ISAM" includes all or most of the claimed features. Examiner fails to find support for "requesting the customer to provide feedback data before a communication like is terminate" and "monitoring the incoming feedback data after the requesting step" as stated in claims 1 and 8. Examiner further fails to find support regarding the limitation "triggering an action if the monitoring step detects a predetermined condition, and the predetermined condition includes ..." as recited in claims 16 and 29. Examiner also believes that the limitations recited in claims 7, 20, and 39 are not supported by Exhibits C-S.

Since MPEP section 2138.04 states: "Conception is established when the invention is made sufficiently clear to enable one skilled in the art to reduce it to practice without the exercise of extensive experimentation or the exercise of inventive skill", examiner believes the Exhibit C does not meet the standard as "sufficient clear" to enable one skilled in the art to reduce the claimed invention (i.e. all pending claims) to practice. In other words, one skilled in the art cannot make the claimed invention base on Exhibit C alone without the exercise of extensive experimentation. As mentioned above, Exhibit C does not suggest the limitation of "requesting" (claims 1 and 8), "monitoring" and "triggering" (claims 16

Art Unit: 2645

and 29). Even applicants stated that the "ISAM brain map is a living document with many adds, changes and revisions" (see Exhibit S, ISAM Documentation-Due Diligence, page 1, lines 6-7 submitted with the Second Declaration). It appears that the pending claims are reflecting the multiple modifications from the original "ISAM" concept. Examiner believes that the original "ISAM", i.e. Exhibit C or the so-called "ISAM brain map" **fails to meet the standard** as stated in the MPEP regarding establishing the conceptions of the invention. Therefore, the Third Declaration does not provide enough evidences to overcome the prior art of Gisby (U.S. Patent 5,943,416) and Shaffer (U.S. Patent 6,363,145).

3. Examiner further examined Exhibit D-S and found out that only Exhibit E was published before 2/27/98 with technical information. However, the technical information on this document is too brief and does not support the claimed invention (i.e. all the pending claims) either. Examiner believes Exhibit C alone or combining with Exhibit E do not provide enough evidences to support the statement that "the claimed invention was conceived before Feb. 17, 1998".

4. The Third Declaration with multiple documents were filed to demonstrate due diligence. However, the issue of diligence is moot because application's submission fails to show the concept has been developed before 2/27/98. See MPEP 715.07(a) states "diligence need not be considered unless conception of the invention prior to the effective date is clearly established".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Gisby US 5,943,416.

5.1 Regarding claims 1 and 8, Gisby discloses a method and system for an automated customer survey in a call center. Gisbe teaches that a customer is queried about service satisfaction and agent's performance (column 2, lines 13-21). Gisby also teaches:

Art Unit: 2645

connecting a caller to a live agent 31 in a call center (service provider) via switch 21 (communication server);

providing a service by the agent to the caller (column 1, lines 14-19; column 7, lines 2-6, 15-16);

requesting the caller to provide feedback data (survey) before hung up (column 5, lines 27-34); column 7, lines 2-6) and

associating the feedback data are with communication server data such caller ID (column 6, lines 56-59), and agent ID (column 2, lines 13-21).

5.2 Regarding claims 2, 9 and 10, Gisby teaches storing the communication server data (column 5, lines 53-57);

5.3 Regarding claims 3 and 11, Gisby teaches providing service to plurality of callers (column 5, lines 18-27) and requesting callers to participate in the survey is performed on an intermittent sampling basis (column 6, lines 36-49).

5.4 Regarding claims 4, and 12, Gisby teaches providing services, which inherently including directory service, airline ticketing, and hotel/restaurant reservation etc., to callers (column 1, lines 15-20).

5.5 Regarding claims 5 and 13, it is inherent that an agent exchange information with a caller in order to provide service.

Art Unit: 2645

5.6 Regarding claims 6 and 14, Gisby teaches analyzing the communication server data and reporting the result of said analyzing (column 2, lines 13-21).

5.7 Regarding claims 7 and 15, Gisby teaches receiving feedback data from a caller via either voice recognition or touch tone input (column 4, lines 63-67).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. US 5,402,474 in view of Wren US 6,055,514.

Miller discloses a method and system for storing telephone transaction information in an archive server. Miller teaches:

a customer at telephone 123 initiates a call to a call center, and establishes a communication link with one live agent at telephone 107 (column 3, lines 33-45; column 5, lines 13-16, 67; column 6, lines 1-8);

the agent provides service to the customer (column 5, lines 55-59; column 6, lines 33-39).



Art Unit: 2645

In the Miller's reference, the agent interviews the customer and receives a customer's comment indicating whether the customer is happy with the service, the customer's comment (feed back data) and other information regarding the call are then entered into the archive server (column 5, lines 21-29; column 7, lines 16-38; column 13, table 6).

Miller fails to explicitly teach that that the comment is provided to the agent upon a request during the interview.

However, Wren discloses a system for marketing goods and services to customers. Wren teaches an agent providing a service to a customer (column 8, lines 23; column 11, lines 32-46) and at the end of a service session, prompting a customer to provide comments on products, assistance (service) provided by a live agent (column 17, lines 8-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miller's reference with the teaching of Wren, so that a live agent would have prompted (request) a customer for comment regarding the service during the interview, because such a modification would have enabled a service provider to receive customers' feedbacks in order to improve its service accordingly.

#### ***Allowable Subject Matter***

7. Claims 16-25, 27-36 and 38-41 are allowed.

The following is a statement of reasons for the indication of allowable subject matter.

Independent claims 16 and 29 disclose a system and method for monitoring a telephone call. If the system detects a predetermined condition, including a predetermined utterance, a predetermined keyed entry and a predetermined change in a qualitative aspect of a spoken portion of a telephone call, then requests feedback from a customer.

The prior art issued to Shaffer (US 6,363,145) teaches monitoring a telephone call in a call center, and if a predetermined condition, such as yelling, voice pitch, and silence interval, is detected, the call is transferred to a supervisor. Shaffer fails to teach monitoring a keyed entry from a customer, and since a customer is on the phone with an agent, there is no motivation to monitor a keyed entry for transferring the customer to a supervisor.

### ***Response to Arguments***

8. Applicant's arguments filed on 06/14/2004, regarding claims 1 and 8 rejected by Miller in view of Strickland, have been fully considered but they are not persuasive.

The Applicants agree that the current invention and the Miller/Strickland references share many common features, but argue that Miller/Strickland fails to teach a key feature of the current invention, automated linking of feedback data with an agent's identity. However, this automated feature is not recited in claims 1 and 8, and Miller clearly teaches the claimed feature of "associating

Art Unit: 2645

feedback data with telecommunications data including the identity of a live agent".

**Conclusion**

9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Simon Sing whose telephone number is (703) 305-3221. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.



S.S.

09/17/2004

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